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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,988	02/04/2004	Bernadette Brown	875P011216-US (PAR)	3584
2512	7590	01/10/2005	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			WILKENS, JANET MARIE	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/771,988

Applicant(s)

BROWN ET AL.

Examiner

Janet M. Wilkens

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/3/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

Information Disclosure Statement

The references in the information disclosure statement filed November 3, 2004 have been crossed out because they have previously been cited on the examiner's PTO-892 form.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Namely, nowhere in the specification is it stated that the artificial light is transmitted through the nylon panels without "color alteration".

Claim Objections

Claim 13 is objected to because of the following informalities: this claim is new to the application, not original thereto. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 9, "said two side panels" and "said top and bottom

panels" lack antecedent basis (the terms are previously found in a "for"/intended use statement and therefore, have not been positively claimed).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 6-9, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wan in view of Zvezdaryk and Taylor. Wan teaches a collapsible "photography" tent (Fig. 3A; tent capable of being employed for various uses including storing cameras, use in a photo shoot serving as an internal stage, etc.) comprising fabric panels of light weight translucent material (column 2, lines 5-7) with perimeter metal frames sewn therein connected together to form an enclosure. In one of the panels is a door removable on at least two sides from its corresponding panel. Note: limitations appearing in "for"/intended use statements have been given no weight in the claims. Also the tent has top, bottom and side panels when situated on its side (one panel placed specifically on the ground). First, for claim 1, Wan fails to teach that the tent material is specifically nylon. Zvezdaryk teaches a tent made of light weight translucent nylon material (column 2, line 61-column 3, line 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to specifically use nylon light weight translucent material for the tent of Wan, depending on the desired

need of the person constructing the tent, e.g. for economic reasons, for personal preference, etc. and since this specific material meets the translucent specification already desired by Wan. Note: it is being assumed that since the material of Zwezdaryk is identical in make to that of the disclosed invention's material, it inherently would be color corrected. No discussion of what, if anything, makes the fabric color corrected has been disclosed in the specification. Second, Wan in view of Zwezdaryk fails to teach that a plastic removable rigid floor panel is located inside the tent. Taylor teaches a removable, rigid, floor panel (152) for use as a support inside a structure. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the panel of Taylor in combination with the tent of Wan in view of Zwezdaryk, to provide a support for articles inside the tent, e.g. for use as a night stand next to a sleeping bag, as a support for a photographed object, etc. Furthermore, the examiner takes Official notice that plastic panels are well known in the art and therefore, it would have been an obvious design consideration to make the panel specifically out of plastic, depending on the desired need of the person constructing the support, e.g. for economic reasons, for personal preference, water proof qualities, etc.

For claims 4, 6 and 13, Wan in view of Zwezdaryk and Taylor fails to teach that the door is removable on all three sides. The examiner takes Official notice that fabric closures removably attached, via either zippers or hook and loop fastener arrangements, to adjacent panels are well known in the art. Therefore, it would have been obvious to use a zipper or hook and loop fastener arrangement to attach the door of Wan in view of Zwezdaryk and Taylor to its panel and to make the door completely

removable, so that when in its open position, the door can be located away from the tent panel, thereby not obstructing the opening formed therein.

For claim 8, Wan in view of Zwezdaryk and Taylor fails to teach that the metal frames are specifically steel. The examiner takes Official notice that steel frames are well known in the art. It would have been an obvious design consideration to make the frames specifically out of steel, depending on the desired need of the person constructing the frames, e.g. for economic reasons, for personal preference, strength qualities desired/required, etc.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wan in view of Zwezdaryk and Taylor as applied to claims 1, 4, 6-9, 11 and 13 above, and further in view of Gasperini. As stated above, Wan in view of Zwezdaryk and Taylor teaches the limitations of claim 1, including a collapsible tent. For claim 3, Wan in view of Zwezdaryk and Taylor fails to teach that a fabric sweep panel is located inside the tent. Gasperini teaches a fabric sweep panel (30) for use inside a structure. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the panel of Gasperini in combination with the tent of Wan in view of Zwezdaryk and Taylor, to provide a support/stage for articles inside the tent, e.g. for photographed objects, providing a contrasting background therefore, etc.

Claims 5, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wan in view of Zwezdaryk and Taylor as applied to claims 1, 4, 6-9, 11 and 13 above, and further in view of Husted. As stated above, Wan in view of Zwezdaryk and Taylor teaches the limitations of claims 1, 4 and 11, including a collapsible tent. For

claim 5, 10 and 12, Wan in view of Zwezdaryk and Taylor fails to teach plural openings in the tent. Husted teaches plural zippered openings (46-48) in a tent. It would have been obvious to one of ordinary skill in the art at the time of the invention to add an opening, such as the zippered openings taught by Husted, in the tent of Wan in view of Zwezdaryk and Taylor, for example at the bottom thereof, to provide an additional place to enter into/go out of and/or place objects in or out of the tent enclosure.

Response to Arguments

Applicant's arguments filed November 3, 2004 have been fully considered but they are not persuasive. As the claims are presently worded, the photography use of the tent is only nominally claimed. (Why this application is classified in class 135 general tents and not in class 362, etc.) Any tent is capable of being employed for various uses including storing cameras, use in a photo shoot serving as an internal stage, etc. Furthermore, the limitations which purportably define the tent over the general art, i.e. for specific photography use, are found in intended use/"for" statements and therefore, have not been given weight in the claims. The examiner contends that all of the structural limitations claimed are met by Wan in view of Zwezdaryk and Taylor (and Gasperini, Husted for the dependent claims). As for the nylon material, it is being assumed that since the material of Zwezdaryk is identical in make to that of the disclosed invention's material, it inherently would be color corrected. No discussion of what, if anything, makes the fabric color corrected has been disclosed in the specification. Furthermore, the addition of the "color alteration" limitation in one of the

intended use statements and the discussion of the fabric in the arguments provide more details for the color corrected material than what is presently disclosed in the application's specification.

Finally, since the Official notice statements have not been challenged, these statements are being maintained, no corresponding references being required. Further discussion on these statements will not be entertained.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

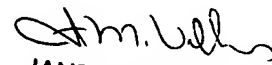
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkins
January 4, 2005


JANET M. WILKENS
PRIMARY EXAMINER
Art 3637